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IN THE HIGH COURT OF THE KARNATAKA AT BANGALORE

DATED THIS THE 8TH DAY OF JUNE, 1998.

BEFORE
THE HON'BLE MR. JUSTICE SRI H.L. DATTU

WRIT PETITION NUMBER:6907/1993.

BETWEEN;

Dr. A.S.Parashivamurthy,
Professor & Head Department
of Soil Science, A-5,
Quarters, Hebbal,
Bangalore-24, now working as
Professor, Alemaya University
of Agriculture, Ethiopia.

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..PETITIONER
(BY SRI C.S.SHANTHAMALLAPPA ADVOCATE)

AND;

1. The University of Agricultural
Science, by its Estate Officer,
GKVK, Bangalore-65.
2. The Administrative Officer,
University of Agricultural
Sciences, GKVK, Bangalore-65.
3. The Chairman,
House Allotment Committee,
GKVK, Bangalore.
4. The Controller,
University of Agricultural
Sciences, GKVK, Bangalore-65.

..RESPONDENTS

(SRI H.T.NARAYANA FOR R1. R2 TO R4 SERVED)

This petition is filed by the petitioner with a prayer to quash the order/communication passed by R1 in No.E0.HAC.A-5/92-93 dt 23.1.1993 vide Annexure-D etc.,

This petition coming on for hearing this day, the court made the following:

ORDER

A Professor and Head of Department

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of Soil Science in the University of Agricultural Sciences is before this court in a petition under Art.226 of the Constitution inter alia questioning the orders made by the Estate Officer of the 1st respondent University dated 23rd January, 1993. By the said letter, respondent University has intimated the petitioner that his family members may retain the official quarters for a period of 90 days on payment of normal rents and after the expiry of 90 days, they should quit and deliver vacant possession of the quarters. It is at this stage, petitioner had approached this court being aggrieved by the same.

2. Facts of this case may briefly be stated as under:

The petitioner as a Professor and Head of Department of Soil Science, was requested by Alemaya University of Ethiopia to employ him as a Professor for a period of two years. The offer so made by the said University, was accepted by the petitioner. But according to him, for a period less than one year even though the said University wanted him to work as Professor for two years. No doubt the contract of employment between the parties indicates that the contract of employment is for a period of two years. But the petitioner had categorically intimated to the respondent University that he would be returning and joining

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the University within one year from the date he is relieved from services of the University.

3. According to the respondents, petitioner was relieved from the post held by him on 17.10.92. Before petitioner could proceed to Alemaya University situated at Ethiopia, he had addressed a letter to the respondent University on 26.12.1992 informing the University that he will be returning within one year and reporting for duty as Professor of Soil Sciences. He had also requested the University authorities that he may be permitted for retention of official quarters allotted to him on payment of normal rents. This request of the petitioner made through his letter dated 23/26.12.1992 has been replied by the Estate Officer of the University. In that reply, the Estate Officer does not refer to the intimation of the petitioner given to him with regard to returning from foreign service within one year. However, intimates the petitioner and his family members that they can retain the quarters only for a period of 90 days from the date of his relief and thereafter should hand over the vacant possession of the premises as envisaged under Clause 13(a) of the Amended Revised Regulations for Allotment of House to the Employees of the University of Agricultural Sciences('Regulations for short').

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4. Sri Anandakrishna shetty, learned counsel appearing for the petitioner submits that the ~~respondent~~ University could not have pressed into service Clause 13(a) of the Regulations to direct the petitioner to retain the quarters for a period of 90 days from the date of his relief and thereafter, hand over possession of the premises to the Estate Officer. In support of this contention, learned counsel takes me through Clause 13(a) of the Regulations, which reads as under:

" 13.a) The allottees whose services are spared by the University on foreign service terms and conditions for more than one year to State Government/Central Govt./ International Organisation may retain the quarters on payment of normal rent for a period not exceeding ninety days from the date of his/her relief. The allottee shall be liable for eviction thereafter."

5. A reading of the aforesaid clause would only indicate that the allottee of the quarters whose services are spared by the University for Foreign Service for more than one year can retain the quarters for payment of normal rents for a period not exceeding 90 days from the date of his/her relief. It also indicates that after expiry of the period of 90 days the allottee shall be liable for eviction thereafter. This is all that clause 13(a) contemplates.

6. Sri H.T.Narayana, learned counsel

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appearing for respondent University vehemently asserts before this court that the petitioner was relieved from the services of the University on 17.9.1992 and he reported for duty on 10.10.1993. That means, the petitioner had accepted the service in a foreign University for more than one year and therefore, respondents were right and justified in invoking Cl.13(a) of the Regulations and directing the petitioner to quit and deliver vacant possession of the premises after the expiry of 90 days from the date of his relief. I am unable to accept the contention of the learned counsel for the respondent for the reason that the petitioner in fact by his letter dated 23/26.12.1992 had informed the University that he would be returning from his Foreign Service within one year and he would be reporting for duty on or before 25.11.1993. In fact, the petitioner was relieved from service on 17.10.1992 and he reported for duty after relieving himself as Professor from Alemaya University of Ethiopia on 19.10.1993 which clearly indicates that the contract with Alemaya University is less than a year. ^{In view of} Even that ~~is so~~, Cl.13(a) of the Regulation could not have been invoked by the respondent University and they could not have ~~been~~ directed the petitioner to quit and deliver vacant possession of the official quarters after the expiry of 90 days.

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7. Learned counsel for the respondent further submits that the petitioner is liable for payment of penal rents under Cl.17 of the Regulations. Cl.17 indicates that if the allottee does not vacate the quarters within the time prescribed under the Regulations, shall pay a penal rent at five times the normal rent. In my view, Cl.17 of the Regulations can be pressed into service provided the petitioner has violated Cl.13(a) of the Regulations. Otherwise, respondents cannot invoke Cl.17 of the Regulations and ask the petitioner to pay a penal rent at five times the normal rent. In that view of the matter, even this contention of the learned counsel for the respondent has no merit and it is accordingly rejected.

8. For the reasons stated, petition is allowed. Rule made absolute. The impugned order dated 23rd January, 1993 issued by the University Estate Officer is quashed. In the facts and circumstances of the case, parties are directed to bear their own costs. Ordered accordingly.



Sd/-
JUDGE